

**Before the State of South Carolina
Department of Insurance**

In the matter of:

American Guardian Warranty Services, Inc.
800 Roosevelt Road, Building E, Suite 100
Glen Ellyn, Illinois 60137.

SCDOI File Number 2002-115428

**Consent Order
Imposing Administrative Penalty**

This matter comes before me pursuant to an agreement entered into between the South Carolina Department of Insurance and American Guardian Warranty Services, Inc. a Service Contract Provider agency recently licensed to transact business in the State of South Carolina.

Based on evidence received by the Department, the Agency hereby admits, and I find as fact, that it transacted the business of insurance in South Carolina before it had been authorized to do so. This is a direct violation of S.C. Code Ann. § 38-43-30 (Supp. 2002).

Prior to the initiation of any administrative proceedings by the Department against the Agency or its agent employees, the parties agreed to submit the entire matter to me, along with their specific recommendation, for my summary decision, rather than to proceed toward a formal public hearing. The consensual recommendation was that the agency would waive its right to a public hearing and pay an administrative fine in the total amount of \$500.00.

Section 38-43-30 of the South Carolina Code requires every agency transacting the business of insurance in South Carolina to be first licensed by the Director or his designee. That Code section goes on to provide that the term "agent" as used in the insurance laws of this State is considered to include an insurance agency, unless the context requires otherwise.

After a thorough review of the record, carefully considering the recommendation of the parties, and pursuant to my findings of fact, I hereby conclude as a matter of law that the Agency has violated S.C. Code Ann. § 38-43-30 (Supp. 2002). Under the discretionary authority provided to me by the General Assembly within S.C. Code Ann. § 38-2-10 (2) (Supp. 2002), I hereby impose against the Agency a fine in the amount of \$500.00, which must be paid within fifteen days of my date and signature on this consent order. If that total fine amount is not timely paid, the Agency's recently acquired license to transact the business of insurance will be revoked without any further disciplinary proceedings.

This administrative penalty has been reached by the parties as a result of negotiation and compromise, and it is made in light of the fact that the Agency has become properly licensed as a non-resident insurance agency since this matter has arisen. It is also made in consideration of the Agency's assurance that it will fully comply with the insurance law of South Carolina in the future.

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By the signature of one of its officers or authorized representative upon this consent order, the Agency acknowledges that it understands that this administrative order is a public record subject to the disclosure requirements of the State of South Carolina's *Freedom of Information Act*, S.C. Code Ann. §§ 30-4-10 *et seq.* (1991 and Supp. 1998). Nothing contained within this administrative disciplinary order should be construed to limit or to deprive any person of any private right of action under the law. Nothing contained within this administrative disciplinary order should be construed to limit, in any manner, the criminal jurisdiction of any law enforcement or judicial officer. Nothing contained within this administrative disciplinary order should be construed to limit the statutory duty, pursuant to S.C. Code Ann. § 38-3-110(4) (Supp. 1998), of the Director of Insurance, exercised either directly or through the Department of Insurance, to "report to the Attorney General or other appropriate law enforcement officials criminal violations of the law relative to the business of insurance or the provisions of this title which he considers necessary to report."

It is, therefore, ordered that the Agency must pay through the South Carolina Department of Insurance an administrative fine in the amount of \$500.00 within fifteen days of the date of this order.

Finally, it is also ordered that a copy of this consent order shall be transmitted to the National Association of Insurance Commissioners for distribution to its member states.

This consent order becomes effective as of the date of my signature below.



Ernst N. Csiszar
Director

Jan 22, 2003 at
Columbia, South Carolina

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I CONSENT:

Rogers P. Freedlund, Jr.
Signature

Rogers P. FREEDLUND, JR.
Name

PRESIDENT
Title

American Guardian Warranty Services, Inc.
800 Roosevelt Road, Building E, Suite 100
Glen Ellyn, Illinois 60137.

Dated this 16 day of January, 2003